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LAW OFFICES OF  
**PAUL, HASTINGS, JANOFSKY & WALKER LLP**

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

600 PEACHTREE ST., N.E., STE. 2400  
ATLANTA, GEORGIA 30308-2222  
TELEPHONE (404) 815-2400

1299 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, D.C. 20004-2400

399 PARK AVENUE  
NEW YORK, NEW YORK 10022-4697  
TELEPHONE (212) 318-6000

695 TOWN CENTER DRIVE  
COSTA MESA, CALIFORNIA 92626-1924  
TELEPHONE (714) 668-6200

TELEPHONE (202) 508-9500

345 CALIFORNIA STREET  
SAN FRANCISCO, CALIFORNIA 94104-2635  
TELEPHONE (415) 835-1600

THE INTERNATIONAL FINANCIAL CENTRE  
OLD BROAD STREET  
LONDON EC2N 1HQ  
TELEPHONE 44 (171) 562-4000

FACSIMILE (202) 508-9700

1055 WASHINGTON BOULEVARD  
STAMFORD, CONNECTICUT 06901-2217  
TELEPHONE (203) 961-7400

555 SOUTH FLOWER STREET  
LOS ANGELES, CALIFORNIA 90071-2371  
TELEPHONE (213) 683-6000

INTERNET www.phjw.com

ROBERT P. HASTINGS (1910-1996)  
COUNSEL  
LEE G. PAUL  
LEONARD S. JANOFSKY  
CHARLES M. WALKER

ARK MORI BUILDING  
12-32, AKASAKA 1-CHOME  
MINATO-KU, TOKYO 107, JAPAN  
TELEPHONE (03) 3586-4711

August 9, 1999

WRITER'S DIRECT ACCESS

(202) 508-9588

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**VIA HAND DELIVERY**

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Room TW-A325, 12<sup>th</sup> Street Lobby  
Washington, D.C. 20554

RECEIVED  
AUG 9 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

RE: Comments of SCC Communications Corp. in CC Docket No. 94-102:  
In the Matter of Revisions of the Communication's Rules to Ensure the  
Compatibility with Enhanced 911 Emergency Calling Systems

Dear Ms. Salas:

On behalf of SCC Communications Corp. ("SCC"), we submit herewith for filing  
an original and ten (10) copies of Comments in the above-referenced proceeding.

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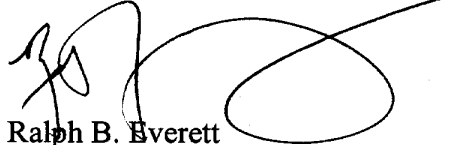
Ms. Magalie R. Salas

August 9, 1999

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We also enclose an extra copy of this transmittal letter and the Comments and ask that you date stamp and return them to our messenger in the envelope provided. Should any questions arise regarding this submission, please contact SCC's undersigned legal counsel.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "R. B. Everett", with a large, sweeping loop extending to the right.

Ralph B. Everett

of PAUL, HASTINGS, JANOFSKY & WALKER LLP

Enclosures

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

In the Matter of ) CC Docket No. 94-102  
)  
Revision of the Commission's Rules )  
To Ensure the Compatibility with Enhanced )  
911 Emergency Calling Systems )  
)

**Comments of SCC Communications Corp.**

SCC Communications Corp. ("SCC")<sup>1</sup> by its attorneys, hereby respectfully submits its comments to the Commission in response to the Commission's June 9, 1999 *Notice* seeking to facilitate wireless E9-1-1 implementation and requesting a report on barriers to Phase I implementation<sup>2</sup> including cost recovery and technology choices.<sup>3</sup> SCC believes that all parties to the "consensus agreement"<sup>4</sup> are committed to Phase I implementation. However, based on SCC's own records and its industry knowledge and experience, SCC estimates that nationally, less than three percent of all wireless subscribers have thus far been provided Phase I service.<sup>5</sup> SCC believes the Commission

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<sup>1</sup> SCC Communications Corp. (NASDAQ: SCCX) is the leading provider of 9-1-1 operations support systems (OSS) services to incumbent local exchange carriers ("ILECs"), competitive local exchange carriers ("CLECs"), and wireless carriers in the United States. SCC has over 80 million subscriber records under management and provides 9-1-1 products and services to over 170 million people throughout North America. SCC's 12 wireless customers have a subscriber base of approximately 24 million people.

<sup>2</sup> See 47 C.F.R. § 20.18(d).

<sup>3</sup> "Commission Seeks To Facilitate Wireless E9-1-1 Implementation and Requests A Report," *Public Notice*, FCC 99-132, rel. June 9, 1999 ('Notice').

<sup>4</sup> The parties to the Consensus Agreement are CTIA, NENA, APCO, and NASNA. See "Commission Seeks Additional Comment in Wireless Enhanced 9-1-1 Rulemaking Proceeding Regarding 'Consensus Agreement' Between Wireless Industry Representatives and Public Safety Groups," *Public Notice*, FCC 96-198, rel. February 16, 1996.

<sup>5</sup> According to the Cellular Telecommunications Industry Association ("CTIA"), there are approximately 77 million wireless subscribers in the United States. See [www.wow-com.com](http://www.wow-com.com).

should clarify and augment its rules in order to accelerate implementation of Phase I, which in turn will save lives.

## **I. Background/Introduction**

SCC currently has contracts with 12 wireless carriers to provide Phase I database management services on behalf of such carriers. The carriers include both national and regional commercial mobile radio service (“CMRS”) carriers. SCC and its wireless clients are committed to providing Phase I service to requesting Public Safety Answering Points (“PSAPs”) in compliance with Commission rules. Because of certain barriers to Phase I implementation, SCC and other providers of wireless E9-1-1 services are currently providing live Phase I service to only a small percentage of wireless subscribers; however, SCC and its wireless carrier clients are currently seeking to deploy Phase I service in conjunction with over 1400 requests for service from primary PSAPs.<sup>6</sup> Properly identifying and categorizing these barriers to deployment, in an effort to remove them, will help resolve Phase I implementation problems.<sup>7</sup>

## **II. Services Contracts Between Wireless Carriers And PSAPs**

In their efforts to implement Phase I service, wireless carriers have typically sought service contracts with PSAPs that propose reasonably comprehensive terms and conditions. Among the more important provisions that carriers seek to include in such

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<sup>6</sup> An adequate service request under Commission rules has two main conditions: (1) the carrier has received a request for service from a PSAP capable of receiving and utilizing the data, and (2) a mechanism for recovering the costs of the service is in place. *Notice* at 3. *See also* 47 C.F.R. § 20.18(f).

<sup>7</sup> For example, there is considerable confusion about whether the number of PSAPs should include non-primary PSAPs. The National Emergency Number Association (“NENA”) defines a primary PSAP as “A PSAP to which 9-1-1 calls are routed directly from the 9-1-1 Control Office” and defines a secondary PSAP as “A PSAP to which 9-1-1 calls are transferred from a Primary PSAP.” For phase 1 purposes, SCC believes that only primary PSAPs should be counted.

contracts are: (a) provision of liability protection or immunity for the benefit of the carrier, (b) detailed descriptions of the scope of work that describe the use of the carrier's choice of underlying technology, the parties' respective obligations, and outline the parties' intent regarding the responsibilities of the Local Exchange Carrier ("LEC"), and (c) a consensus regarding what E9-1-1 related costs the carrier will incur and what costs will be reimbursable to the carrier. These issues are discussed in more detail below.

PSAPs are asked to accommodate the differing contract requirements of multiple wireless service providers, and often feel compelled to seek the advice of outside legal counsel. These time-consuming and expensive efforts have contributed to delays in completing this contracting process. It takes substantial time for counsel to assimilate, and individually negotiate with carriers, the differences between one proposed contract and another in a way that PSAPs find acceptable.

Contributing to this problem is a lack of guidance from the Commission regarding which party shall determine the choice of technology, the roles and obligations of the LEC, the provision of sufficient liability protection, and an ambiguous definition of what constitutes cost recovery. These uncertainties, both individually and collectively, have often times paralyzed the implementation process. PSAPs typically would rather have a more standardized method by which they can take advantage of the Commission's Phase I mandate. PSAPs generally have been unwilling to proceed without this method, and wireless carriers have been reluctant to proceed without comprehensive contract provisions that address their legitimate concerns. Thus, in far too many instances, the parties have reached an impasse. For SCC, these unresolved contract issues have primarily been responsible for stalling Phase I implementation.

### **III. Technology Choices**

There have been numerous disputes between carriers and PSAPs over technology choices.<sup>8</sup> Implementation of Phase I E9-1-1 operation requires a significantly higher degree of integration with a wireless carrier's infrastructure and operations than with any other aspect of the 9-1-1 system. SCC further recognizes that engineering requirements for certain wireless switching facilities are incompatible with existing wireline E9-1-1 configurations, and the same is true in the reverse order.

These realities cause wireless carriers to adopt 9-1-1 service approaches that are closely integrated with their operating environment as a preferred solution and in certain situations force wireless carriers to propose alternative solutions for technical reasons. Often these solutions, while technically viable, have been unacceptable to a PSAP.

Cost effectiveness is of vital concern to PSAPs, and their expenditures are made with care. PSAPs often view themselves as the wireless carrier's "customer" in the Phase I situation, and PSAPs express the opinion that, since they are responsible for paying for the service, they should be allowed to decide the technology the wireless carrier must use. For their part, wireless carriers view PSAP technology demands as an unwarranted governmental intrusion into carrier decision making. Thus, the battle lines have been clearly drawn between the parties. However, with guidance from the Commission, this confrontation can be resolved. Failure to do so will merely ensure further delay in Phase I implementation.

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<sup>8</sup> See AT&T Wireless Ex Parte Filings, October 2, 1998, March 11, 1999, and March 18, 1999 in CC Docket No. 94-102.

Depending on the extent to which a carrier has invested in a given technology for its delivery of Phase I E9-1-1 service, a given carrier is typically motivated by common sense business principles to protect that investment. Costs could differ substantially from one carrier to the next (as could the cost-effectiveness of the methods of delivering service described in a proposed contract scope of work). Thus, carriers typically refuse to deviate from the technology they have been deploying, or are intending to deploy. Their position is meritorious. Carriers, whether offering nationally deployed service or not, are unable to support multiple technologies and still provide the level of service demanded by the Commission. Carriers often provide national service that requires technological consistency from state to state.

#### **IV. Liability Protection**

Currently, about 41 states grant some level of civil liability protection to wireless carriers.<sup>9</sup> Absent from the list are states with substantial numbers of citizens who do not enjoy Phase I service. Carriers are understandably reluctant to deploy service in a risky business and legal environment.

Congress is in the process of considering 9-1-1 liability parity for all carriers, vendors, and agents in all 50 states<sup>10</sup> and this legislative solution is likely to be enacted. However, the Commission should act on this issue in the event the pending legislation does not become law.

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<sup>9</sup> See Wireless 9-1-1 Surcharge and Liability chart in the Attachment.

<sup>10</sup> The Wireless Communications and Public Safety Act of 1999 (H.R. 438) passed the House of Representatives 415-2 on February 24, 1999. A companion bill, S.800, unanimously passed the Senate on August 5, 1999.

## **V. Cost Recovery**

Although the Commission clearly intended that a carrier be reimbursed for its costs of providing Phase I service,<sup>11</sup> there is a need for the Commission to reaffirm the carriers' right to cost recovery.

Currently, approximately 33 states<sup>12</sup> have some form of wireless 9-1-1 surcharge. However, not all states have the means to deploy service on a statewide basis, and in those states that do, some do not yet have in place a fully functioning state 9-1-1 board or other entity.<sup>13</sup> In addition, the definition of "cost recovery" is subject to a number of conflicting interpretations. Thus, the recoverable costs incurred by the wireless carriers in implementing Phase I service are often a matter of dispute between carriers and public safety agencies, and these disputes prolong contract negotiations and delay implementation.

SCC respectfully requests that the Commission unequivocally address cost recovery issues.

## **VI. Local Exchange Carriers**

Without the cooperation of Incumbent Local Exchange Carriers ("ILECs"), wireless E9-1-1 implementation can be delayed indefinitely. There are legal consequences if an ILEC elects to delay, refuses to participate or simply acts in a manner that is inconsistent with the intent of the Communications Act of 1934, as amended.

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<sup>11</sup> See 47 C.F.R. §20.18(f).

<sup>12</sup> See Wireless 9-1-1 Surcharge and Liability chart in the Attachment.

<sup>13</sup> For example, Florida has enacted cost recovery legislation but has not yet named the members of its 9-1-1 CMRS Board.



However, such litigation is very time consuming, costly, and impractical for all concerned.

Based on SCC's experiences, there are numerous issues regarding ILEC cooperation with PSAPs and wireless carriers that request LEC participation (e.g. pertaining to switching, interconnection, and related charges) that are not adequately covered at this time and should be addressed by the Commission.

## **VII. Education**

Pervasive rumors, innuendo, and mixed messages spawn uncertainty in the minds of many participants, most noteworthy of which are the PSAPs. Some PSAPs generally believe that wireless E9-1-1 will require wholesale changes to their premise equipment or that Phase I is of marginal value. There are misinformation campaigns causing some PSAPs to decide to postpone, or forego altogether, Phase I implementation.

In fact, many wireless Phase I solutions, including the solution proposed by SCC, do not require additional equipment or changes to existing PSAP equipment or other existing network elements. Since Phase I provides the foundational prerequisite necessary for delivery of Phase II service, Phase I is not only of value, it is essential. Education to overcome these pervasive myths is undoubtedly needed and may require further Commission attention.

### VIII. Conclusion

SCC's customers include wireless carriers as well as wireline carriers, who themselves have customers that include PSAPs. It is SCC's strong desire to work cooperatively with these varied, critical parties in support of implementation of Phase I service in a manner that is fair to all. The April 1998 deadline for wireless Enhanced 9-1-1 Phase I service has not been met for a number of reasons having little to do with the good will of these parties. However, the varied interests of all involved are preventing deployment in accordance with the original intent of the Commission. SCC encourages all parties, and the Commission to address the legal and policy issues acting as barriers to Phase I implementation with prompt, direct, and unambiguous action. The Commission will then succeed in accelerating the rate of Phase I implementation, thereby improving access to emergency services by wireless consumers and saving lives.

Respectfully submitted,  
SCC COMMUNICATIONS CORP.

By: 

Ralph B. Everett  
PAUL, HASTINGS, JANOFSKY &  
WALKER LLP  
1299 Pennsylvania Avenue, NW  
10th Floor  
Washington, D.C. 20004-2400  
(202) 508-9500



Robert R. Cohen  
Vice President, Government Relations  
SCC COMMUNICATIONS CORP.  
1225 Eye Street, N.W.  
Suite 500  
Washington, D.C. 20005  
202-312-2010



Map of the United States showing wireless telephone surcharges by state. States with a black background have a surcharge, while white states do not. Surcharges are listed for several states: HI (white), AK (white), ID (white), WY (white), ND (white), WI (white), OH (white), PA (white), CT (31¢), RI (47¢), NH (42¢), VT (white), MA (white), DE (60¢), MD (white), LA (white, \$1.00/Res\*, \$2.00/Bus), NM (white), KS (white), OK (white), MO (white, \*), NE (white), and HI (white). A legend indicates 'Wireless Surcharge' for black states and 'No Wireless Surcharge' for white states. An inset shows HI and AK. Footnotes explain the surcharge amounts and legislative status.

Legend:

- Wireless Surcharge
- No Wireless Surcharge

Inset map shows HI and AK.

Footnotes:

- \* Amount listed is maximum allowed by state law. Actual amount set by county government.
- \*\* Maximum allowed by state law. Actual amount to be set by state board.
- \*\*\* Enabling legislation passed. Enactment pending action by governor.
- ▲ Subject to approval by governor or voters.
- + 50 cent surcharge failed in special election.

Legend:

- Liability Protection
- ▣ No Liability Protection